1 2 3 4 5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 6 7 IN AND FOR THE COUNTY OF MARICOPA 8 9 IN RE THE GENERAL ADJUDICATION 10 OF ALL RIGHTS TO USE WATER IN Contested Case No. W1-11-2690 THE GILA RIVER SYSTEM AND 11 SOURCE 12 ORDER RE: SECOND JOINT SETTLEMENT REPORT 13 AND PROPOSED ABSTRACTS 14 15 16 CONTESTED CASE NAME: In re Pima County Flood Control District 17 HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report 18 DESCRIPTIVE SUMMARY: A second joint settlement report shall be filed by the United States by November 9, 2018. Arizona Department of Water Resources requested to review 19 proposed abstracts and produce maps by November 9, 2018. 20 NUMBER OF PAGES: 9 21 DATE OF FILING: October 10, 2018 22 23 24 This contested case shall resolve objections to the following Watershed File Reports: 25 113-11-002, 113-12-BA-012, and 113-12-021. 26 27

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### Watershed File Report 113-12-BA-012

On August 31, 2018, the parties filed a Joint Settlement Report ("the Report"). According to the Report, proposed abstracts for water rights analyzed in Watershed File Report 113-12-BA-012 (the "WFR") were prepared by counsel for Pima Counsel and circulated among the parties who filed objections to the WFR. The proposed abstracts appear to be acceptable to BHP Copper, Inc. and ASARCO, LLC for purposes of settling their objections as well as to Salt River Project and the City of Phoenix. As to the remaining objectors, the Report states that certain water right characteristics appear to be under study by the parties. The United States and the Gila Indian Community had only recently received the proposed abstracts at the time of the filing of the Report so their position with respect to the abstracts is unknown.

Counsel for the United States shall consult with each of the parties and prepare a Second Joint Settlement Report approved by all objectors that includes the most recent abstracts under discussion by the parties and lists with specificity those characteristics in the proposed abstracts to which objections have not been resolved.

### Watershed File Reports 113-11-002 and 113-12-021

This case also involves *de minimis* claims for water rights analyzed by Watershed File Reports Nos. 113-11-002 and 113-12-021 included in the final hydrographic survey report for the San Pedro Watershed ("San Pedro HSR") filed on November 20, 1991. In 1994, the Special Master issued a Memorandum Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases involving Stockwatering, Stockponds, and Domestic Uses, dated November 14, 1994, amended February 23, 1995, approved and modified September 27, 2002 ("Decision"). The Decision established the procedures for adjudicating *de minimis* water rights for claims in the San Pedro watershed.

Once the proposed water right abstracts have been prepared, "the litigants will be provided an opportunity to suggest the correction of mistakes in the proposed abstracts." Decision, p. 47. This proceeding is not a forum in which to relitigate the Decision, which was the subject of years of briefing and has now been affirmed for more than 14 years. Subsequently, these abstracts will be included in a catalog of proposed water rights where they will be subject to very limited set of objections and ultimately in a final decree.

As required by the Decision, four proposed water right abstracts have been prepared for the *de minimis* water rights analyzed by Watershed File Reports Nos. 113-11-002 and 113-12-021 which are attached as Appendix A. No abstract was prepared for PWR 113-11-002-SW002 due to the continued discussions between Pima County Flood Control District and Bellota Corporation. Arizona Department of Water Resources shall review the legal descriptions on the attached abstracts and prepare maps showing the location of the use of the water right. The map of any rights for stock watering shall include the full extent of the reach from which stock watering is permitted and not just the headwaters of the applicable reach.

#### IT IS ORDERED:

- 1. The United States shall file a Joint Settlement Report by November 9, 2018.
- 2. The Arizona Department of Water Resources shall file its report and maps by November 9, 2018.

SUSAN WARD HARRIS

Special Master

On October 10, 2018, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case.

## **ATTACHMENT A**

1. Proposed Water Right No.:	113-11-002-SW001-A
2. Owner of Water Right:	Pima County Regional Flood Control District
3. Landowner:	Pima County Regional Flood Control District
4. Statement of Claimant No.(s):	39-17838
5. Statement of Claimant Name(s):	Pima County Regional Flood Control District
6. Lessee or Permitee:	None
7. Basis of Right:	Certificate of Water Right 4053 (Applic. No. 4A-394)
8. Beneficial Use:	Stock watering
9. Priority Date:	April 25, 1957
10. Quantity:	Reasonable Use
11. Place of Use:	NWSW 14 T12 R17 *
12. Point of Diversion:	NWSW 14 T12 R17 *
13. Source of Water:	San Pedro River
14. Name of Facility:	Buehman Canyon

1. Proposed Water Right No.:	113-11-002-SW001-B
2. Owner of Water Right:	Pima County Regional Flood Control District
3. Landowner:	Pima County Regional Flood Control District
4. Statement of Claimant No.(s):	39-17846
5. Statement of Claimant Name(s):	Pima County Regional Flood Control District
6. Lessee or Permitee:	None
7. Basis of Right:	Certificate of Water Right 1247 (App. No. 4a-2050)
8. Beneficial Use:	Stock watering
9. Priority Date:	October 4, 1938
10. Quantity:	Reasonable Use
11. Place of Use:	NWNE 24 T12 R17*
12. Point of Diversion:	NWSW 14 T12 R17*
13. Source of Water:	San Pedro River
14. Name of Facility:	Buehman Canyon

1. Proposed Water Right No.:	113-12-021-SW001
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2771
5. Statement of Claimant Name(s):	Pima County Regional Flood Control
6. Lessee or Permitee:	None
7. Basis of Right:	36-18384
8. Beneficial Use:	Stock watering
9. Priority Date:	January 15, 1902
10. Quantity:	Reasonable Use
11. Place of Use:	SENENW 18 T11S R18E
12. Point of Diversion:	SENENW 18 T11S R18E
13. Source of Water:	Peck Spring

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1. Proposed Water Right No.:	113-12-021-SW002
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2768
5. Statement of Claimant Name(s):	Floyd and Lavita Bingham Family Trust
6. Lessee or Permitee:	None
7. Basis of Right:	4A-4914
8. Beneficial Use:	Stock watering
9. Priority Date:	December 31, 1971
10. Quantity:	Reasonable Use
11. Place of Use:	SENE 30 T11S R18E
12. Point of Diversion:	SENE 30 T11S R18E
13. Source of Water:	Edgar Spring